

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS: 02-0426**  
**Indiana Individual Income Tax**  
**For the Tax Year 2001**

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**ISSUE**

**I. Individual Income Tax—Imposition**

**Authority:** Rockland R. Snyder v. Indiana Department of Revenue, 723 N.E.2d 487 (Ind. Tax 2000); IC 6-3-1-3.5; IC 6-8.1-4-2; 45 IAC 3.1-1-1; 45 IAC 3.1-1-2; Black's Law Dictionary, 6<sup>th</sup> Ed., 1579 (West Publishing, 1990)

Taxpayer protests imposition of Indiana Individual Income tax.

**STATEMENT OF FACTS**

Taxpayer filed a 2001 Indiana individual income tax return on which he reported that his Federal adjusted gross income was "0" (zero). The Indiana Department of Revenue ("Department") issued a proposed assessment for 2001 individual income taxes. Taxpayer protests this assessment. Further facts will be provided as necessary.

**DISCUSSION**

Taxpayer protests the Department's proposed assessment of 2001 individual adjusted gross income tax. Taxpayer filed a 2001 Indiana individual income tax return with Federal adjusted gross income reported as "0" (zero). The Department reviewed the documentation available to it and, after determining that taxpayer received pension payments during the tax period, issued a proposed assessment for 2001. Taxpayer protests that, since he reported "0" on his Federal tax return, he was compelled to report his income as "0" on his Indiana tax return or commit perjury. Taxpayer presented several Federal cases, which he believes support his position that pension payments are not income.

Taxpayer presents arguments that have been made before. The Indiana Tax Court dealt with an identical argument in Rockland R. Snyder v. Indiana Department of Revenue, 723 N.E.2d 487 (Ind. Tax 2000). In that case, the Court wrote:

Indiana relies upon the Internal Revenue Code's definitions for gross and adjusted gross income. Even so, in ascertaining whether Snyder is liable for his unpaid

state adjusted gross income taxes, this Court is not obligated to adopt the federal courts' interpretations of income under I.R.C. § 61(a). However, their interpretations are certainly persuasive in this matter. Common definition, an overwhelming body of case law by the United States Supreme Court and federal circuit courts, and this Court's opinion in *Thomas* all support the conclusion that wages are income for purposes of Indiana's adjusted gross income tax.

Snyder, at 491.

The word "Wages" is defined as, "A compensation given to a hired person for his or her services. Compensation for employees based on time worked or output of production." Black's Law Dictionary, 6<sup>th</sup> Ed., 1579 (West Publishing, 1990). The word "Pension" is defined as, "Retirement benefit paid regularly (normally, monthly), with the amount of such benefit based generally on length of employment and amount of wages or salary of pensioner. *Deferred compensation for services rendered.*" Black's 6<sup>th</sup> ed, at 1134, (emphasis added). Therefore, pensions are simply deferred wages.

The Department refers to 45 IAC 3.1-1-1, which states:

Adjusted Gross Income for Individuals Defined. For individuals, "Adjusted Gross Income" as defined in Internal Revenue Code § 62 modified as follows:

- (1) Begin with gross income as defined in section 61 of the Internal Revenue Code.
- (2) Subtract any deductions allowed by section 62 of the Internal Revenue Code.
- (3) Make all modifications required by IC 6-3-1-3.5(a).

Also, IC 6-3-1-3.5 states in relevant part:

When used in IC 6-3, the term "adjusted gross income" shall mean the following:

- (a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

....

The statute then lists Indiana's modifications to Federal adjusted gross income. The instructions on the tax form are there to show taxpayers where to put numbers. IC 6-3 and its accompanying statutes and regulations inform taxpayers what numbers to put on the form. The wording on the form does not relieve a taxpayer of the duty to accurately report income as defined in the Internal Revenue Code.

Next, the Department refers to 45 IAC 3.1-1-2, which states in relevant part:

Indiana residents must report all income as defined by § 61 of the Internal Revenue Code. Sources of income include, but are not limited to:

...

(11) Pensions

As part of the written protest, taxpayer stated that the Department needed to show where in the Indiana statutes it gives anyone the right to change his tax return. The Department refers to IC 6-8.1-4-2, which states:

- (a) The division of audit may:
  - (1) have full prompt access to all local and state official records;
  - (2) have access, through the data processing offices of the various state agencies, to information from government and private sources that is useful in performing its functions;
  - (3) inspect any books, records, or property of any taxpayer which is relevant to the determination of the taxpayer's tax liabilities;
  - (4) *detect and correct mathematical errors on taxpayer returns*;
  - (5) detect and correct tax evasion;
  - (6) employ the use of such devices and techniques as may be necessary to improve audit practices.

(emphasis added)

This statute gives the Department the right to change a taxpayer's tax return.

At the administrative hearing, taxpayer provided several federal tax cases as support for his protest. These cases dealt with federal taxation of corporations (primarily on capital gains), rather than state taxation of an individual's adjusted gross income. As these cases are not relevant to Indiana adjusted gross income tax for individuals, the Department will not discuss them further.

In conclusion, the Department determined that taxpayer received pension payments during 2001, and has the right under IC 6-8.1-4-2(a) to change taxpayer's tax return. Pensions are deferred wages and the Indiana Tax Court has already determined that wages are income for purposes of Indiana's adjusted gross income tax, as explained in Snyder. 45 IAC 3.1-1-2 explicitly states that pensions are to be reported as income. Taxpayer was required to report on his Indiana form income as defined in section 61 of the Internal Revenue Code.

**FINDING**

Taxpayer's protest is denied.

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